

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
HELENA DIVISION**

TRATICA SMITH

PLAINTIFF

v.

NO. 2:04V00065

JO ANNE B. BARNHART,
Commissioner, Social
Security Administration

DEFENDANT

ORDER

Pending before the Court is Plaintiff's Motion for an Award of Attorney's Fees and Other Expenses Under the Provisions of the Equal Access to Justice Act ("EAJA"), along with a Memorandum in Support (docket entry #14). Defendant has filed a Response (docket entry #15). For the reasons set forth herein, the Motion will be granted.

On April 2, 2004, Plaintiff filed this action challenging the decision of an Administrative Law Judge ("ALJ") denying her social security benefits (docket entry #2). On August 19, 2005, the Court entered a Memorandum and Order and Judgment (docket entries #11 and #12) remanding the case to the ALJ pursuant to sentence four of 42 U.S.C. § 405(g) and *Melkonyan v. Sullivan*, 501 U.S. 89 (1991).

On October 19, 2005, Plaintiff's attorney, Mr. Anthony W. Bartels, filed a Motion for an Award of Attorney's Fees and Other Expenses Under the Provisions of the EAJA. In this Motion, Mr. Bartels seeks payment for 3.00 hours of work performed by an attorney, 13.95 hours of work performed by a paralegal, and reimbursement for \$13.95 in expenses. Pursuant to an agreement between The Bartels Law Firm and the Office of General Counsel of the Social Security Administration (docket entry #14, attachment), Mr. Bartels seeks payment for attorney

time as follows: (1) 2.55 hours of work performed during 2004 at the adjusted hourly rate of \$152.00; and (2) .45 hours of work performed during 2005 at the adjusted hourly rate of \$156.00. Mr. Bartels seeks payment for 13.95 hours of paralegal time at the rate of \$65 an hour and \$13.95 in expenses. Defendant does not object to the requested amounts for attorney's fees and expenses. However, on review, the number of hours itemized for paralegal work by Mr. Bartels in his Motion for Attorney's fees totals 13.85 hours, instead of 13.95 hours.

Under these circumstances, the Court concludes that Plaintiff is entitled to an award of fees and expenses under the EAJA, and that the amount requested by Plaintiff's attorney, after adjusting for the mathematical error, is reasonable. Accordingly, Plaintiff's attorney shall receive a total award of \$1,372.00, which includes: (1) 2.55 hours of attorney time at the rate of \$152.00 per hour (\$387.60); (2) .45 hours of attorney time at the rate of \$156.00 per hour (\$70.20); (3) 13.85 hours of paralegal time at the rate of \$65.00 per hour (\$900.25); and (4) \$13.95 in expenses.

IT IS THEREFORE ORDERED that Plaintiff's Motion for an Award of Attorney's Fees Pursuant to the Equal Access to Justice Act (docket entry #14) is hereby GRANTED.

IT IS FURTHER ORDERED that the Commissioner shall certify and pay to Mr. Anthony W. Bartels, attorney for Plaintiff, \$1,372.00, which has been awarded as fees and expenses pursuant to the EAJA.

DATED this 26th day of October, 2005.



UNITED STATES MAGISTRATE JUDGE